

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 UNITED STATES OF AMERICA,

5 Plaintiff,

6 v.

7 GERALD LESLIE TATE,

8 Defendant.

Case No. 2:14-cr-00384-APG-CWH

**ORDER GRANTING MOTIONS FOR
EXTENSION OF TIME TO FILE A 2255
MOTION**

(ECF Nos. 45, 46)

9
10 Defendant Gerald Leslie Tate has filed two motions to extend the deadline by which he
11 must file his motion for relief under 28 U.S.C. § 2255. ECF Nos. 45, 46. The Government
12 opposes, arguing that I should wait to consider the request until Tate files his 2255 motion, at
13 which time I will be better able to determine whether Tate should be granted additional time. ECF
14 No. 47. Tate's motions, liberally construed, make out a facially valid justification for additional
15 time. In this circumstance, the most efficient way to proceed is a hybrid of what each party
16 requests. I will grant Tate additional time to file his 2255 motion. However, this does not mean
17 that the 2255 motion will be deemed timely. In his 2255 motion, Tate should explain in more
18 detail why he could not file it by the original deadline. I then will consider the timeliness of his
19 2255 motion and whether he is entitled to equitable tolling or some other form of extension of
20 time. The Government is entitled, if necessary, to argue that the 2255 motion is untimely.

21 IT IS HEREBY ORDERED that Tate's motions to extend time (ECF Nos. 45, 46) are
22 **GRANTED**. Tate shall file his 2255 motion by June 29, 2018. This order is without prejudice to
23 the Government's ability to argue, and to my ability to later order, that the 2255 motion is
24 untimely.

25 Dated: May 10, 2018.

26
27 
28 ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE